

P15742.A06

Applicants also note with appreciation the Examiner's acknowledgment of the claim for priority and the certified copy of Applicants' priority document. It is noted, however, that the Examiner has not acknowledged Applicants' Information Disclosure Statement filed on October 8, 1997. Thus, Applicants would appreciate acknowledgment of this Statement, including a return of a copy of the Form PTO-1449 with the appropriate spaces initialed by the Examiner, in the next Official Office Action.

The Examiner has rejected claims 1 - 3 and 6 - 12 under 35 U.S.C. § 102(b) as being clearly anticipated by U. S. Patent 3,197,784 (CARLISLE). The Examiner considers the protective helmet taught by CARLISLE to include a main outer shell of deformable material having resilient bending means formed by downwardly opening cutouts between segments 20-41, and that claims 1-3 and 6-12 read on this structure.

However, Applicants point out that the device of CARLISLE is a bonnet, and not a protective helmet of the type of their invention. The bonnet of CARLISLE does not have a main outer shell or a facial opening as recited in claim 1 and newly presented claim 18. Additionally, CARLISLE does not disclose a rear lower portion that corresponds to the zone occupied by the nape of the user as disclosed by Applicants in lines 9 and 10 on page 4 of the specification as originally filed and now clearly recited in claim 1, as well as in newly presented claim 18. Thus, since CARLISLE fails to disclose each and every element recited in independent claims 1 and 18, claims 1 and 18 are clearly not



P15742.A06

anticipated thereby under 35 U.S.C. § 102(b). It follows that claims 2, 3 and 6-12, which depend from claims 1 and 18, also cannot be anticipated by CARLISLE under § 102(b). Thus, the Examiner is requested to withdraw the rejection of claims 1-3 and 6-12 under 35 U.S.C. § 102(b).

The Examiner has also rejected claims 4 and 5 under 35 U.S.C. § 103 as being unpatentable over CARLISLE in view of U.S. Patent No. 5,165,166 (SIMPSON). The Examiner has taken the position that CARLISLE teaches the helmet structure as claimed except for the particular composite material of claims 4 and 5, and concludes that one of ordinary skill in the art would have found it obvious to form the helmet of CARLISLE from the composite taught by SIMPSON. However, the patent to SIMPSON does nothing to provide the deficiencies of the bonnet of CARLISLE noted above, and the Examiner's rejection of claims 4 and 5 must fall for this reason alone.

Furthermore, neither CARLISLE nor SIMPSON, nor any of the other cited references either teach or suggest Applicants' claimed helmet combination formed from the materials recited in claims 2-5, nor do they teach or suggest the particular wall structure of the main outer shell recited in claim 6. The applied prior art also fails to teach or suggest Applicants' claimed protective helmet having the particular cutouts recited in claims 7-13, and, as the Examiner has already observed, Applicants' claimed helmet structure including a nape cushion partially held in the shell by the cutouts as

P15742.A06

recited in claims 14 and 15 is neither taught nor suggested by any of the applied prior art. Additionally, Applicants' maintain that the claimed helmet structure including the bending means (or bending portion) comprising at least one cutout in the rear lower portion to define at least two deformable portions, with at least one cutout extending to a position less than half the height of the helmet and a nape cushion removably attached to the helmet in the area of the cutout as recited in new claims 16 and 19, as well as the nape cushion extending across at least one cutout to cover and protect the rear lower portion as recited in new claims 17 and 20, are both features which are neither taught nor suggested by any of the prior art of record.

Applicants also point out that claim 1 as now amended and newly presented claim 18, along with claims 2-13, 16, 17, 19 and 20 dependent therefrom, also patentably distinguish over the following references provided in the Information Disclosure Statement filed October 8, 1997, for at least the reasons stated below:

The helmet disclosed by U. S. Patent No. 1,660,375 (DIETERLE) is a different type than the one of the present invention. It is not formed as a helmet with a main outer shell that extends to the rear to form a facial opening. It also does not have a lower rear wall as in the present invention, and therefore there is no problem with the adjustment. Furthermore, the shell is not made of plastic material but of leather, and the rear wall (7) thereof does not have a resilient bending means as claimed, and is not in itself made of a

P15742.A06

deformable material. In fact, the opposite is true, since the wall (7) is an extension of the wall (2), and since, as stated on page 1, in col. 2, lines 71-75, the "side members 2 are preferably formed of relatively stiff leather, but to insure retention of shape, I preferably provide them with reinforcements 4 of vulcanized fiber molded to similar shape..." The wall (7) is therefore of stiff leather, advantageously reinforced by a fiber reinforcement. Consequently, the wall (7) of the helmet of DIETERLE is not deformable in itself, and it does not have the means to make it resiliently deformable.

U. S. Patent No. 4,477,929 (MATTSON) discloses another type of helmet, an ice hockey helmet, which includes an adjustable, but not resiliently deformable, portion of the rear wall. It is clear that once the adjustment is made, the rear portion is locked into the selected position.

A completely different type of helmet from that of the present invention is disclosed in U.S. Patent No. 3,230,544 (MAGER). In the helmet of MAGER, the outer shell is not extended by a lower rear portion, but rather is formed with a hole closed by a flap.

Another completely different type of helmet from that of the present invention is disclosed in British published patent specification GB 1,060,567 (FISK) which not only discloses a completely different helmet than the one claimed in the present application, but the cut-outs that this helmet is provided with are not located in the lower rear portion.

P15742.A06

It also appears that this helmet has an adjusting strap blocking the deformation of the helmet when it is being used.

Lastly, the British publication GB 2,202,729 (SHEPHARD) discloses a helmet that is completely nonanalogous to the present invention for at least two different reasons. First, the shell is not extended by a rear and outer lower wall. Second, the slits (2) are not provided on the outer shell, rather, they are provided in the internal padding.

Thus, Applicants respectfully submit that each and every pending claim of the present invention meets the requirements for patentability under 35 U.S.C. § 102 and § 103, and respectfully request the Examiner to indicate allowance of each and every pending claim of the present invention.

CONCLUSION

In view of the foregoing, it is submitted that the present amendment is proper and that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious the Applicants' invention, as recited in each of claims 1 - 20. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

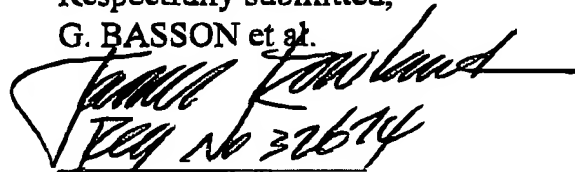
Accordingly, consideration of the present amendment, reconsideration of the outstanding Office Action, and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

P15742.A06

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Any comments or questions concerning this application can be directed to the undersigned at the telephone number given below.

Respectfully submitted,
G. BASSON et al.

A handwritten signature in dark ink, appearing to read "Neil F. Greenblum", is written over a horizontal line. Below the signature, the text "Reg. No. 28,394" is handwritten.

Neil F. Greenblum
Reg. No. 28,394

April 15, 1998
GREENBLUM & BERNSTEIN, P.L.C.
1941 Roland Clarke Place
Reston, VA 20191
(703) 716-1191
NFG/WEL